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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/649,937	08/29/2000	Stuart Mandel Garland	45-8-54	8777

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HOLMDEL, NJ 07733

EXAMINER

TRAN, PHILIP B

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/649,937

Applicant(s)

GARLAND ET AL.

Examiner

Philip B. Tran

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1-24 are rejected under 35 U.S.C 103(a) as being unpatentable over Courville et al (Hereafter, Courville), U.S. Pat. No. 5,579,381 in view of Wallance, U.S. Pat. No. 6,215,854.

Regarding claim 1, Courville teaches in a communication system including a switch (= a public switched telephone network (PSTN)) coupled with Customer Premises Equipment (CPE) (= telecommunication terminals (20)) and an application

server (= server (10)) coupled with the switch [see Fig. 1], a method for sending a server-specified message to the CPE without setting up a call path between the application server and the CPE, the method comprising the steps of:

 sending a request from the application server to the switch (= the server (10) initiates by sending a request to the PSTN including the originating switch (110) and the terminating switch (120)) [see Col. 3, Line 29 to Col. 4, Line 30]; and

 sending, based upon the request, a predetermined server-specified message from the switch to the CPE, wherein CPE is not rung and the predetermined message is not affected by the features of the line associated with the CPE (= message from the server is processed in the PSTN to provide suppressed ringing access to the terminal (20) via the desired subscriber line (22)) [see Abstract and Col. 4, Lines 31-61 and Col. 6, Line 65 to Col. 7, Line 15].

Courville does not explicitly teach without setting up a call path between the application server and the CPE. However, Wallance, in the same field of telephone communications network, discloses call waiting mechanism with no ringing and without setting up a call path between server and the CPE [see Wallance, Col. 3, Line 45 to Col. 4, Line 8]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the teaching of Wallance into the teaching of Courville in order to transmit data without setting a call path the server and the CPE.

Regarding claim 2, Courville further teaches the step of sending a predetermined server-specified message from the switch to the CPE comprises the step of forwarding

the request received from the application to the CPE (= routing the request message received from the server to the subscriber terminal line) [see Col. 2, Lines 16-29].

Regarding claims 3-4, Courville further teaches sending a return message from the CPE to the switch without setting up a call path between the application server and the CPE and the step of sending a status message based upon the return message from the switch to the application server without setting up a call path between the application server and the CPE (= the terminal sends a message to the switch and the switch sends a message to the server) [see Col. 5, Lines 45-52].

Regarding claim 5, Courville further teaches the step of sending a predetermined server-specified message from the switch to the CPE comprises the step of opening an analog path to send the predetermined server-specified message to the CPE (= providing ringing signal path [see Col. 3, Lines 30-65] to the subscriber line) [see Col. 2, Lines 30-65] is inherently opening an analog path to send the message to the terminal.

Claim 6 is rejected under the same rationale set forth above to claim 1.

Claims 7-9 are rejected under the same rationale set forth above to claims 2-4.

Regarding claim 10, Courville further teaches the means for sending a predetermined message to the CPE comprises means for sending a message to the

CPE using suppressed ringing capabilities (= using suppressed ringing access) [see Col. 2, Lines 30-65 and Col. 4, Lines 30-53].

Claim 11 is rejected under the same rationale set forth above to claim 6.

Claims 12-14 are rejected under the same rationale set forth above to claims 8-10.

Claim 15 is rejected under the same rationale set forth above to claim 11.

Claim 16 is rejected under the same rationale set forth above to claim 6. In addition, Courville further teaches an application server (= server (10)), Customer Premises Equipment (CPE) (= terminal (20)), and a switch coupled to the application server and the CPE (= a public switched telephone network (PSTN) including originating switch (110) and terminating switch (120)).

Claims 17-19 are rejected under the same rationale set forth above to claims 7-9.

Regarding claim 20, Courville further teaches a communication system in accordance with claim 16, wherein the CPE comprises a modem (= Fig. 1 and Col. 5, Lines 43-45].

Regarding claims 21-22, Courville further teaches a communication system in accordance with claim 16, wherein the CPE comprises a computer or a data communications terminal (= terminal (20)) [see Fig. 1].

Regarding claims 23-24, Courville further teaches a communication system in accordance with claim 16, wherein the application server comprises a computer or a data communications device [see Fig. 1].

3. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

Other References Cited

4. The following references cited by the examiner but not relied upon are considered pertinent to applicant's disclosure.

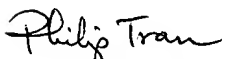
- A) Smith et al, U.S. Pat. No. 6,219,409.
- B) Scoggins et al, U.S. Pat. No. 6,373,847.
- C) Mowafy et al, U.S. Pat. No. 5,995,611.

5. A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS ACTION IS SET TO EXPIRE THREE MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION. FAILURE TO RESPOND WITHIN THE PERIOD FOR RESPONSE WILL CAUSE THE APPLICATION TO BECOME ABANDONED (35 U.S.C.

§ 133). EXTENSIONS OF TIME MAY BE OBTAINED UNDER THE PROVISIONS OF 37 CAR 1.136(A).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tran whose telephone number is (571) 272-3991. The Group fax phone number is (703) 872-9306. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar, can be reached on (571) 272-4006.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Philip B. Tran
Art Unit 2155
June 03, 2005